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10 *Attorneys for Plaintiff and the Proposed Class*

11 **UNITED STATES DISTRICT COURT**  
12 **DISTRICT OF NEVADA**

13  
14 PATRICIA L. FALCONE, Ph.D., an  
individual; on behalf of herself and all others  
15 similarly situated,

16 Plaintiff,

17 v.

18 GAUGHAN SOUTH LLC, a Nevada limited  
liability company dba South Point Hotel,  
Casino & Spa,

19 Defendant.  
20

Case No.: 2:18-cv-0234-GMN-GWF

**STIPULATION AND ORDER TO STAY  
PROCEEDINGS AND EXTEND  
DEADLINE FOR DEFENDANT TO  
RESPOND TO THE COMPLAINT**

**(FIRST REQUEST)**

21 On February 8, 2018, Patricia L. Falcone, Ph.D (“Plaintiff”), on behalf of herself and the  
22 proposed Class, filed the instant case against Gaughan South LLC, a Nevada limited liability  
23 company dba South Point Hotel, Casino & Spa (“South Point”). Plaintiff and South Point, by and  
24 through their respective counsel of record, stipulate to: (1) stay this case pending a ruling on  
25 subject matter jurisdiction in *Cabral et al. v. Caesars Entertainment Corporation et al.*, Case No.  
26 2:17-cv-02841-APG-VCF (the “Caesars Case”), another similar case filed by the same Plaintiff’s  
27 counsel; and (2) extend the current deadlines for South Point to respond to Plaintiff’s Complaint  
28 (ECF No. 1) until after the Court makes a determination of subject matter jurisdiction in the

1 Caesars Case.

2 **I. Background**

3 On February 8, 2018, Plaintiff filed the instant case against South Point, alleging that  
4 South Point improperly applied Clark County, Nevada’s Combined Transient Lodging Tax to  
5 charges for internet access. Relatedly, counsel for Plaintiff has filed some fourteen additional  
6 lawsuits (the “Related Lawsuits” and, together with the instant action, the “Resort Fee Lawsuits”) in this District Court that assert similar claims and requests for relief against other resort/hotel  
7 defendants:  
8

- 9 • *Cabral et al. v. Caesars Entertainment Corporation et al.*, Case No.  
10 2:17-cv-02841-APG-VCF (filed on November 10, 2017);
- 11 • *Phelps et al. v. MGM Resorts International et al.*, Case No. 2:17-cv-  
12 02848-APG-CWH (filed on November 13, 2017);
- 13 • *Martinez et al. v. Las Vegas Sands Corp. et al.*, Case No. 2:17-cv-  
14 02859-APG-NJK (filed on November 14, 2017);
- 15 • *Schnitzer et al. v. Wynn Resorts, Ltd. et al.*, Case No. 2:17-cv-02868-  
16 RFB-GWF (filed on November 15, 2017);
- 17 • *Bowes, et al., v. Nevada Property 1 LLC, dba Cosmopolitan of Las*  
18 *Vegas*, Case No. 2:17-cv-02913-GMN-VCF (filed on November 20,  
19 2017);
- 20 • *Chapman v. Penn National Gaming, Inc. et al.*, Case No. 2:17-cv-  
21 02924-GMN-PAL (filed on November 21, 2017);
- 22 • *Shapiro v. Treasure Island, LLC*, Case No. 2:17-cv-02930-APG-CWH  
23 (filed on November 22, 2017);
- 24 • *Inman v. Las Vegas Resort Holdings, LLC*, Case No. 2:17-cv-02950-  
25 JAD-NJK (filed on November 28, 2017);
- 26 • *Herrera v. American Casino & Entertainment Properties, LLC, et al.*,  
27 Case No. 2:18-cv-00218-JAD-PAL (filed on February 5, 2018);
- 28 • *Robinson v. Westgate Resorts, Inc.*, Case No.: 2:19-cv-0095-JAD-CWH

(filed on January 17, 2018)

- *Hernandez, et al., v. FP Holdings, LP, et al.*, Case No. 2:18-cv-00321-RFB-PAL (filed on February 21, 2018);
- *Mason, et al., v. HRHH Hotel/Casino, LLC*, Case No. 2:18-cv-0036-RFB-CWH (filed on February 28, 2018);
- *Hanson v. Plaza Hotel & Casino, LLC*, Case No. 2:18-cv-00378-APG-NJK (filed on March 1, 2018); and,
- *Webster, et al., v. GNLV Corp., et al.*, Case No. 2:18-cv-00576-KJD-PAL (filed on March 29, 2018).

## **II. The Requested Stay and Deadline Extensions Will Conserve Resources for the Parties and the Court**

To avoid duplicative legal briefing and to efficiently address the common issue of subject matter jurisdiction, the parties to a group of the Resort Fee Lawsuits have entered into a separate agreement (the “Agreement”), attached hereto as Exhibit 1, to efficiently determine subject matter jurisdiction by filing a single motion to dismiss on the issue (the “Subject Matter Jurisdiction Motion”) in the first-filed case, *i.e.*, *Cabral et al. v. Caesars Entertainment Corporation et al.*, Case No. 2:17-cv-02841-APG-VCF (the “Caesars Case”). Under the Agreement, the signatory parties presently before Judge Gordon have agreed to consolidate their respective cases for the sole and limited purpose of allowing Judge Gordon to determine the issue of subject matter jurisdiction in one consolidated order. On February 22, 2018, Judge Gordon granted the parties’ request and consolidated various Resort Fee Lawsuits before him.<sup>1</sup>

Additionally, the parties in the remaining cases, including now South Point, have collectively agreed to seek a stay of their respective cases pending a decision on the Subject Matter Jurisdiction Motion in the Caesars Case. While not binding on this Court, such a decision may nevertheless provide guidance, increase judicial efficiency, and decrease costs to both the Court and the parties. In fact, the parties have agreed to take certain actions in this litigation (as

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<sup>1</sup> See Order Granting Stipulations (ECF No. 21), Case No. 2:17-cv-02841-APG-VCF.

1 set forth more fully below) that are contingent on the outcome of the Subject Matter Jurisdiction  
2 Motion in the Caesars Case.

3 Thus, pursuant to the Agreement, Plaintiff and South Point, by and through their  
4 undersigned counsel, stipulate that:

- 5 1. All matters in the instant case be stayed pending a determination of the Subject  
6 Matter Jurisdiction Motion in the Caesars Case.
- 7 2. If Judge Gordon finds the Court lacks subject matter jurisdiction and grants the  
8 Subject Matter Jurisdiction Motion, then either Plaintiff will move the Court to  
9 voluntarily dismiss the instant case without prejudice, or Plaintiff's counsel (who  
10 also are counsel in the Caesars Case) will appeal from Judge Gordon's order. If  
11 Plaintiff's counsel decides to appeal, then Plaintiff will request a continuation of  
12 the stay in this case, pending a resolution of the appeal. If, after appeal, the  
13 applicable court determines that there is no federal jurisdiction, then Plaintiff will  
14 move the Court to voluntarily dismiss this case without prejudice.
- 15 3. If Judge Gordon finds he has subject matter jurisdiction and denies the Subject  
16 Matter Jurisdiction Motion, then South Point will not re-file the Subject Matter  
17 Jurisdiction Motion in this case.<sup>2</sup>
- 18 4. South Point's current deadline to respond to Plaintiff's Complaint (ECF No. 1) is  
19 May 18, 2018. If Judge Gordon finds he has subject matter jurisdiction and denies  
20 the Subject Matter Jurisdiction Motion, then South Point's deadline to respond to  
21 the Complaint shall be extended to 30 days from the date that the court in the  
22 Caesars Case enters a final order on the Subject Matter Jurisdiction Motion.

23 These stipulations between Plaintiff and South Point will permit the efficient determination  
24 of a common legal issue that exists in multiple, related lawsuits, and conserve judicial and party  
25 resources. Notably, a stipulation requesting similar relief was recently granted by the Court in the  
26 related lawsuit of *Bowes et al. v. Nevada Property I LLC*, case no. 2:17-cv-02913-GMN-VCF (ECF

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27 <sup>2</sup> As noted above, the parties recognize that this Court is not bound by Judge Gordon's ruling. Nothing in this  
28 stipulation shall limit any party's ability to respond to subject matter jurisdiction issues raised by this Court.

1 No. 22).

2 Pursuant to the Agreement, filing of the Subject Matter Jurisdiction Motion does not  
3 constitute a waiver of any defense or argument and shall not preclude South Point from asserting  
4 any additional defenses or arguments at a later date, including, without limitation, any defenses or  
5 motions permitted by Federal Rule of Civil Procedure 12(b). These stipulations are made in good  
6 faith and not for purposes of delay.

7 Dated: May 14, 2018

8 /s/ Don Springmeyer

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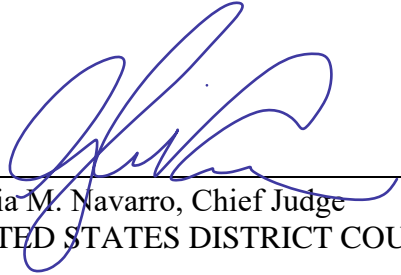
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22 *Counsel for Plaintiff and the Proposed  
Class*

23 **ORDER**

24 IT IS SO ORDERED.

25  
26 DATED this 22 day of May, 2018.

27   
28 Gloria M. Navarro, Chief Judge  
UNITED STATES DISTRICT COURT